

SENATE, No. 2989

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2013

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator RAYMOND J. LESNIAK

District 20 (Union)

Co-Sponsored by:

Senator Bateman

SYNOPSIS

Establishes crimes of dog fighting and leader of a dog fighting network;
amends RICO to add leader of a dog fighting network.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/18/2013)

1 **AN ACT** concerning animal fighting, supplementing chapter 33 of
2 Title 2C and amending N.J.S.2C:41-1 and R.S.4:22-24

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) a. A person is guilty of dog fighting if that
8 person knowingly:

9 (1) keeps, uses, is connected with or interested in the
10 management of, or receives money for the admission of a person to,
11 a place kept or used for the purpose of fighting or baiting a dog;

12 (2) owns, possesses, keeps, trains, promotes, purchases, breeds
13 or sells a dog for the purpose of fighting or baiting that dog;

14 (3) for amusement or gain, causes, allows, or permits the
15 fighting or baiting of a dog;

16 (4) permits or suffers a place owned or controlled by that person
17 to be used for the purpose of fighting or baiting a dog;

18 (5) is present and witnesses, pays admission to, encourages or
19 assists in the fighting or baiting of a dog; or

20 (6) gambles on the outcome of a fight involving a dog.

21 Dog fighting is a crime of the third degree.

22 b. In addition to any other penalty imposed, the court shall
23 order the seizure and forfeiture of any animals used for fighting or
24 baiting, and may upon request of the prosecutor or on its own
25 motion, order any person convicted of a violation under this section
26 to forfeit possession of: (1) any other animals in the person's
27 custody or possession; and (2) any other property involved in or
28 related to a violation of this act. The court may prohibit any such
29 person from having future possession or custody of any animal for
30 any period of time the court deems reasonable, including a
31 permanent prohibition.

32 c. For the purposes of this section "bait" means to attack with
33 violence, to provoke, or to harass a dog with one or more animals
34 for the purpose of training the dog for, or to cause a dog to engage
35 in, a fight with or among other dogs.

36
37 2. (New section) a. A person is a leader of a dog fighting
38 network if he conspires with others in a scheme or course of
39 conduct to unlawfully engage in dog fighting, as defined in section
40 1 of P.L. , c. (C.) (pending before the Legislature this bill),
41 as an organizer, supervisor, financier or manager of at least one
42 other person. Leader of a dog fighting network is a crime of the
43 second degree.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Financier" means a person who, with the intent to derive a
2 profit, provides money or credit or other thing of value in order to
3 finance the operations of dog fighting.

4 b. In addition to any other penalty imposed, the court shall
5 order the seizure and forfeiture of any dogs used for fighting or
6 baiting, and may upon request of the prosecutor or on its own
7 motion, order any person convicted of a violation under this section
8 to forfeit possession of: (1) any other animals in the person's
9 custody or possession; and (2) any other property involved in or
10 related to a violation of this act. The court may prohibit any such
11 person from having future possession or custody of any animal for
12 any period of time the court deems reasonable, including a
13 permanent prohibition.

14 c. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction
15 of leader of a dog fighting network shall not merge with the
16 conviction for any offense, nor shall such other conviction merge
17 with a conviction under this section, which is the object of the
18 conspiracy. Nothing contained in this section shall prohibit the
19 court from imposing an extended term pursuant to N.J.S.2C:43-7;
20 nor shall this section be construed in any way to preclude or limit
21 the prosecution or conviction of any person for conspiracy under
22 N.J.S.2C:5-2, or any prosecution or conviction under N.J.S.2C:41-1
23 et seq. (racketeering activities) or subsection g. of N.J.S.2C:5-2
24 (leader of organized crime) or any prosecution or conviction for any
25 such offense.

26 d. It shall not be necessary in any prosecution under this
27 section for the State to prove that any intended profit was actually
28 realized. The trier of fact may infer that a particular scheme or
29 course of conduct was undertaken for profit from all of the
30 attendant circumstances, including but not limited to the number of
31 persons involved in the scheme or course of conduct, the actor's net
32 worth and his expenditures in relation to his legitimate sources of
33 income, or the amount of cash or currency involved.

34 e. It shall not be a defense to a prosecution under this section
35 that the dog intended to be used for fighting was brought into or
36 transported in this State solely for ultimate distribution or sale in
37 another jurisdiction.

38 f. It shall not be a defense that the defendant was subject to the
39 supervision or management of another, nor that another person or
40 persons were also leaders of a dog fighting network.

41
42 3. N.J.S.2C:41-1 is amended to read as follows:

43 2C:41-1. For purposes of this section and N.J.S.2C:41-2 through
44 N.J.S.2C:41-6:

45 a. "Racketeering activity" means (1) any of the following
46 crimes which are crimes under the laws of New Jersey or are
47 equivalent crimes under the laws of any other jurisdiction:

48 (a) murder

- 1 (b) kidnapping
- 2 (c) gambling
- 3 (d) promoting prostitution
- 4 (e) obscenity
- 5 (f) robbery
- 6 (g) bribery
- 7 (h) extortion
- 8 (i) criminal usury
- 9 (j) violations of Title 33 of the Revised Statutes
- 10 (k) violations of Title 54A of the New Jersey Statutes and Title
- 11 54 of the Revised Statutes
- 12 (l) arson
- 13 (m) burglary
- 14 (n) theft and all crimes defined in chapter 20 of Title 2C of the
- 15 New Jersey Statutes
- 16 (o) forgery and fraudulent practices and all crimes defined in
- 17 chapter 21 of Title 2C of the New Jersey Statutes
- 18 (p) fraud in the offering, sale or purchase of securities
- 19 (q) alteration of motor vehicle identification numbers
- 20 (r) unlawful manufacture, purchase, use or transfer of firearms
- 21 (s) unlawful possession or use of destructive devices or
- 22 explosives
- 23 (t) violation of sections 112 through 116 inclusive of the
- 24 "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-
- 25 116)
- 26 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
- 27 and all crimes involving illegal distribution of a controlled
- 28 dangerous substance or controlled substance analog, except
- 29 possession of less than one ounce of marijuana
- 30 (v) violation of subsection b. of N.J.S.2C:24-4 except for
- 31 subparagraph (b) of paragraph (5) of subsection b.
- 32 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16),
- 33 leader of firearms trafficking network
- 34 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
- 35 weapons training for illegal activities
- 36 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2),
- 37 terrorism
- 38 (z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human
- 39 trafficking
- 40 (aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing
- 41 conduct
- 42 (bb) violation of N.J.S.2C:12-3, terroristic threats **[.]**
- 43 (cc) violation of section 2 of P.L. , c. (C.) (pending
- 44 before the Legislature as this bill), leader of dog fighting network.
- 45 (2) any conduct defined as "racketeering activity" under Title
- 46 18, U.S.C.s.1961(1)(A), (B) and (D).

1 b. "Person" includes any individual or entity or enterprise as
2 defined herein holding or capable of holding a legal or beneficial
3 interest in property.

4 c. "Enterprise" includes any individual, sole proprietorship,
5 partnership, corporation, business or charitable trust, association, or
6 other legal entity, any union or group of individuals associated in
7 fact although not a legal entity, and it includes illicit as well as licit
8 enterprises and governmental as well as other entities.

9 d. "Pattern of racketeering activity" requires:

10 (1) Engaging in at least two incidents of racketeering conduct
11 one of which shall have occurred after the effective date of this act
12 and the last of which shall have occurred within 10 years (excluding
13 any period of imprisonment) after a prior incident of racketeering
14 activity; and

15 (2) A showing that the incidents of racketeering activity
16 embrace criminal conduct that has either the same or similar
17 purposes, results, participants or victims or methods of commission
18 or are otherwise interrelated by distinguishing characteristics and
19 are not isolated incidents.

20 e. "Unlawful debt" means a debt:

21 (1) Which was incurred or contracted in gambling activity
22 which was in violation of the law of the United States, a state or
23 political subdivision thereof; or

24 (2) Which is unenforceable under state or federal law in whole
25 or in part as to principal or interest because of the laws relating to
26 usury.

27 f. "Documentary material" includes any book, paper,
28 document, writing, drawing, graph, chart, photograph, phonorecord,
29 magnetic or recording or video tape, computer printout, other data
30 compilation from which information can be obtained or from which
31 information can be translated into useable form or other tangible
32 item.

33 g. "Attorney General" includes the Attorney General of New
34 Jersey, his assistants and deputies. The term shall also include a
35 county prosecutor or his designated assistant prosecutor if a county
36 prosecutor is expressly authorized in writing by the Attorney
37 General to carry out the powers conferred on the Attorney General
38 by this chapter.

39 h. "Trade or commerce" shall include all economic activity
40 involving or relating to any commodity or service.

41 (cf: P.L.2007, c.341, s.4)

42

43 4. R.S.4:22-24 is amended to read as follows:

44 4:22-24. A person who shall:

45 a. Keep, use, be connected with or interested in the
46 management of, or receive money for the admission of a person to,
47 a place kept or used for the purpose of fighting or baiting a living
48 animal or creature;

1 Additionally, a person would be guilty of the crime of leader of a
2 dog fighting network if the person conspires with others in a
3 scheme or course of conduct to unlawfully engage in dog fighting
4 as an organizer, supervisor, financier or manager of at least one
5 other person. This crime would be a crime of the second degree. A
6 crime of the second degree is ordinarily punishable by a term of
7 imprisonment of five to 10 years, a fine of up to \$150,000, or both.
8 This crime would also be added to the list of offenses considered
9 “racketeering activity” under RICO, N.J.S.2C:41-1 et seq., which
10 could trigger additional criminal penalties if a person is found to
11 engage in a pattern of racketeering activity. See N.J.S.2C:41-3.

12 Also concerning prosecutions for the crime of leader of a dog
13 fighting network, the bill includes a non-merger provision, meaning
14 that a conviction for such crime would not merge with the
15 conviction for any other offense when the underlying conduct being
16 prosecuted establishes more than one offense.

17 Further, it would not be a defense to the crime of leader of a dog
18 fighting network that a dog intended to be used for fighting was
19 brought into or transported in this State solely for ultimate
20 distribution or sale in another jurisdiction. It also would not be a
21 defense that the defendant was subject to the supervision or
22 management of another.

23 With respect to both criminal dog fighting and leader of a dog
24 fighting network, the court would, in addition to any other penalty it
25 imposed, order the seizure and forfeiture of any dogs used for
26 fighting or baiting, and may upon request of the prosecutor or on its
27 own motion, order any convicted person to forfeit possession of: (1)
28 any other animals in the person’s custody or possession; and (2) any
29 other property involved in or related to the criminal act.
30 Additionally, the court could prohibit any such person from having
31 future possession or custody of any animal for any period of time
32 the court deems reasonable, including a permanent prohibition.

33 Finally, with respect to animal fighting generally, the bill would
34 amend R.S.4:22-24, a statute concerning criminal animal fighting,
35 to include a definition of “baiting” similar to that set forth above for
36 the new crime of dog fighting. Thus, under the bill, the term
37 “baiting” in reference to persons engaged in criminal animal
38 fighting would mean “to attack with violence, to provoke, or to
39 harass an animal with one or more animals” for purposes of training
40 or causing the animal to engage in animal fighting. The existing
41 crime of animal fighting is a crime of the third degree, ordinarily
42 punishable by a term of imprisonment of three to five years, a fine
43 of up to \$15,000, or both.